

**KINGS COUNTY SUPREME COURT
HELP CENTER – ROOM 122C
360 ADAMS STREET
BROOKLYN, NY 11201**

This summary will **BRIEFLY** describe how to respond to a motion or an order to show cause. It is not intended to be a substitute for legal research or representation. **ANYONE INTERESTED IN BEGINNING A LAWSUIT IS STRONGLY ENCOURAGED TO SEEK LEGAL COUNSEL. THE HELP CENTER CANNOT PROVIDE YOU WITH LEGAL ADVICE OR COMPLETE FORMS ON YOUR BEHALF.**

HOW TO RESPOND TO A MOTION OR AN ORDER TO SHOW CAUSE

In order to respond to a motion or an order to show cause, you must prepare answering papers. If you disagree with what is being asked for in the motion or order to show cause, you must prepare an **affidavit in opposition** (see **Exhibit A**). If you agree with what is being asked for, you must prepare an **affidavit in support** (see **Exhibit B**). You may attach any documents that support your position as “exhibits”. Legal issues should be addressed in a separate **memorandum of law**. Copies of your answering papers must be served on all the other parties in the case. Remember, you cannot serve legal papers in your own case (CPLR 2103) and you must obtain affidavit of service for all parties served. You must submit original answering papers to the court with original affidavits of service at the time and place indicated in the Notice of Motion or Order to Show Cause.

Preparing the Answering Papers

Your answering papers should be written in a clear, concise, and organized manner. The affidavit must be notarized and must contain copies of all the documents supporting your position that you want the court to consider. You may provide the affidavits of other people so long as they have personal (first-hand) knowledge of the issues. The exhibits must be clearly and consecutively labeled (i.e., Exhibit A, Exhibit B). The use of exhibit tabs (available in any legal stationery store) is required by court rule.

Any legal arguments should be raised in a separate memorandum of law. If the movant has raised legal issues you should research them online or at a law library (360 Adams Street, 3rd Floor) so that you are prepared to address them in your own memorandum of law.

You must appear in court ready to present your arguments on the return date (or adjourned date) of the motion or order to show cause.

Service of the Answering Papers

Opposition papers must be served by the date specified in the Notice of Motion or Order to Show Cause. If no date is specified in the Notice of Motion, answering papers must be served **at least two days** before the return date of the motion [CPLR 2214(b)]. If no date is specified in the Order to Show Cause, answering papers must be served **by the return date**.

If you are responding to a motion, you can usually serve your answering papers by mail (CPLR 2103). However, if the court orders some other means of service, you must abide by the court's directive. For more specific information about service, read Article 3 of the Civil Practice Law and Rules and the booklet entitled "**How to Serve Legal Papers**".

Obtaining Affidavits of Service

Your original answering papers must be filed with the court along with proof that they were served on the other parties in the action. The usual form of proof is the affidavit of service which describes the **who** (which parties), **what** (legal papers delivered), **where** (to what address), **when** (date served) and **how** (mail, personal service) of service. The affidavit of service is a sworn statement and, therefore, must be notarized.

An Acknowledgment of Service (included in most litigation covers) signed by the party receiving the papers is also proof of service.

Submitting Answering Papers to the Court

If you are responding to a motion (except for cases in the foreclosure motion or matrimonial parts), your original answering papers and affidavits of service must be filed with the Motion Support Office (Room 227). If you are responding to an order to show cause, your original answering papers, and affidavits of service should be presented to the court clerk on your return date.

EXHIBIT A

INSTRUCTIONS: FILL IN THE NAMES OF THE PARTIES AND THE INDEX NUMBER. COMPLETE THE BLANK SPACES NEXT TO THE INSTRUCTIONS PRINTED IN BOLD TYPE, CROSS OUT INFORMATION IN ITALICS WHICH DOES NOT APPLY. PRINT AND USE BLACK INK ONLY.

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF KINGS

-----X

Plaintiff(s) / Petitioner(s)

Index Number_____/____

- against -

**AFFIDAVIT IN OPPOSITION
PART 130 CERTIFICATION /
LEGAL BLACK**

Defendant(s)/ Respondents)

-----X

STATE OF NEW YORK

COUNTY OF _____ **[WHERE NOTARIZED]**

[YOUR NAME], being duly sworn,
deposes and says:

1. I am the **plaintiff / petitioner / defendant / respondent [CIRCLE ONE]** in this action / proceeding.
I make this affidavit in opposition to the motion by _____

[NAME OF PARTY] for an order **[STATE WHAT RELIEF THE
OTHER SIDE ASKS FOR.]** _____

2. I believe the Court should deny the motion because **[EXPLAIN THE REASONS FOR YOUR
REQUEST. USE ADDITIONAL PAPER IF NECESSARY.]** _____

WHEREFORE, I respectfully request that this motion be denied.

[PRINT YOUR NAME]

_____ day of _____, 20 _____

Notary Public

EXHIBIT B

INSTRUCTIONS: FILL IN THE NAMES OF THE PARTIES AND THE INDEX NUMBER. COMPLETE THE BLANK SPACES NEXT TO THE INSTRUCTIONS PRINTED IN BOLD TYPE, CROSS OUT INFORMATION IN ITALICS WHICH DOES NOT APPLY. PRINT AND USE BLACK INK ONLY.

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF KINGS

-----X

[FILL IN NAME(S)] Plaintiff(s) / Petitioner(s)

Index Number _____/_____

- against -

AFFIDAVIT IN SUPPORT

[FILL IN NAME(S)] Defendant(s)/ Respondents)

-----X

STATE OF NEW YORK

COUNTY OF _____ **[WHERE NOTARIZED]**

[YOUR NAME], being duly sworn,
deposes and says:

1. I am the **plaintiff / petitioner / defendant / respondent [CIRCLE ONE]** in this **action / proceeding [CIRCLE ONE]**. I make this affidavit in support of my motion for an order **[DESCRIBE WHAT YOU ARE ASKING THE COURT TO GRANT.]**

2. I believe the Court should grant my motion because **[EXPLAIN THE REASONS FOR YOUR REQUEST. USE ADDITIONAL PAPER IF NECESSARY.]** _____

3. [IF YOU ARE MOVING BY ORDER TO SHOW CAUSE, FILL IN THIS PARAGRAPH. LIST ALL PRIOR REQUESTS FOR THIS RELIEF MADE TO ANY COURT AND THE RESULTS OF THOSE APPLICATIONS. IF NO PRIOR REQUESTS HAVE BEEN MADE, STATE "NONE".]

No prior application has been made for the relief sought herein except _____

WHEREFORE, I respectfully request that this motion be granted, and that I have such other and further relief as may be just and proper.

[SIGN BEFORE A NOTARY PUBLIC]

[PRINT YOUR NAME]

Sworn to before me on the

_____ day of _____, 20 _____

Notary Public